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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,650	01/07/2005	Anthony E. Winston	49102	5199

45980 7590 11/09/2006

CHURCH & DWIGHT CO., INC.  
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EXAMINER

GEORGE, KONATA M

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/520,650

Applicant(s)

WINSTON ET AL.

Examiner

Konata M. George

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/7/06</u> | 6) <input type="checkbox"/> Other: ____  |

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### **DETAILED ACTION**

Claims 1-5 are pending in this application.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on January 7, 2005 was noted and the submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the examiner has considered the information disclosure statement.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schamper (US 4,121,904) in view of Hahn et al. (US 5,716,625).

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Applicant claims a depilatory composition comprising at least one chemical depilatory component and an effective sulfide malodor lessening, amount of strontium ions. The depilatory agent is selected from alkali or alkali earth thioglycolates and the strontium salt is in an amount ranging from 0.2 to 2%.

***Determination of the scope and content of the prior art***

**(MPEP §2141.01)**

Schamper discloses a depilatory composition for removing hair comprising sodium thioglycolate or calcium thioglycolate (or other alkaline earth metal thioglycolates) and may contain supplemental ingredients, generally in minor proportions (col. 3, lines 51-66).

Hahn et al. discloses the use of divalent cation strontium and salts in topical skin compositions to provide anti-irritant effects (col. 9, lines 59-61 and col. 10, lines 20-24). Column 9, lines 4-5 teach that the divalent cation strontium and salts can be used in shaving products or other cosmetics. Column 12, lines 44-60 teach the concentrations of the divalent cation strontium and salts that can be used in compositions from 10mM (0.21% w/v, 0.23% w/w), 50mM (1.05% w/v, 1.14% w/w).

***Ascertainment of the difference between the prior art and the claims***

**(MPEP §2141.02)**

Schamper does not disclose an effective sulfide malodor lessening, eliminating or preventing amount of strontium ions.

***Finding of prima facie obviousness***

***Rational and Motivation (MPEP §2142-2143)***

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Hahn et al. in the invention of Schamper to teach the claimed invention. The motivation to add the strontium and salts of Hahn et al. in the depilatory composition of Schamper is to provide a composition the in less irritating to the skin. Since depilatory compositions are applied to the skin and left on for a period of time to allow the composition to work it is possible that skin irritation can occur, especially with someone who has sensitive skin. The addition of an anti-irritant to the depilatory would lessen the irritation that may occur.

***Conclusion***

3. Claims 1-5 are rejected.


***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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